

February 15, 1999

DURHAM, NORTH CAROLINA  
MONDAY, FEBRUARY 15, 1999  
7:30 P.M.

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent: None.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order and at this time, the Mayor requested a moment of silence in memory of Jerry Byrd; Dr. Johnnie Blunt McLester; and Briana Crutchfield.

Mayor Pro Tempore Clement recognized the Durham Housing Department as the recipient of a \$2.4 million federal grant to take measures against lead paint.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Clerk Bowers informed the Council that the protest petition filed against Case P98-67, GBA #8 was ruled insufficient by the City/County Planning Department. **[No priority items from the City Manager/City Attorney]**

Mayor Tennyson asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. It was noted that Consent Item 18 was revised at the Committee-of-the-Whole Meeting. **[No items were pulled from the Consent Agenda]**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the Consent Agenda as amended was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: POLICE DEPARTMENT'S QUARTERLY STATUS REPORT AND THE CITY OF DURHAM'S SEVEN POINT CRIME REDUCTION INITIATIVE QUARTERLY REPORT**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive the combined Police Department Quarterly Status Report

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and the City of Durham's Seven Point Crime Reduction Initiative Quarterly Report as the official report for the 4th quarter of calendar year 1998 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: SALE OF PERSONAL PROPERTY TO KENNETH E. WRIGHT**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to sell to Kenneth E. Wright the laptop computer that he used in his position with the City, being a Dell Laptop, for the sum of \$850.00, the amount of its estimated fair market value was approved at 7:39 p.m. by the following vote:

Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF DURHAM AND THE COUNTY OF DURHAM REGARDING THE DURHAM CONVENTION AND VISITORS BUREAU**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt the Interlocal Cooperation Agreement between the City of Durham and the County of Durham Regarding the Durham Convention and Visitors Bureau was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: BIDS - 1998 ANNUAL CITY AUCTION**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive a report from the City Manager on the "high" bids received at the 1998 annual City auction was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: PERFORMANCE AND BOND POLICY FOR PURCHASE CONTRACTS**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive a report pertaining to the use of Performance Bonds in

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purchase contracts; and

To adopt the following policy pertaining to the use of Performance Bonds in purchase contracts was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- a. The Durham City Council, or City Manager when applicable, waives the Performance Bond requirement as provided in North Carolina G.S. 143-129 in purchase contracts for apparatus, supplies, materials, or equipment.
- b. The Durham City Council, or City Manager when applicable, reserves the right to require a Performance Bond in any instance where it is deemed to the advantage of the City to do so.

**SUBJECT: UPDATE ON ENFORCEMENT OF THE HANDICAP PROVISIONS OF THE FAIR HOUSING ORDINANCE**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive and accept a report which provides an update on the City's efforts to enforce the handicap provisions of the City's Fair Housing Ordinance was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: SETTING PUBLIC HEARING CONCERNING CURRENT MINIMUM HOUSING CODE (ARTICLE VI. CHAPTER 6 OF THE DURHAM CITY CODE)**

**MOTION** by Council Member Larson seconded by Council Member Miller to set a public hearing on Monday, March 1, 1999 to receive citizens' comments and concerns regarding the current Minimum Housing Code was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: MAYOR'S NOMINATION TO RALEIGH-DURHAM AIRPORT AUTHORITY**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the Mayor's nomination of Robert D. Teer, Jr. to the

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Raleigh-Durham Airport Authority for a term to expire January 1, 2001 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: SITE PLAN APPROVAL - DUKE UNIVERSITY INDOOR TENNIS FACILITY**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve a site plan for the Duke University Indoor Tennis Facility, submitted by Brockwell Associates, Inc., consisting of a 48,800 square-foot indoor tennis facility on a 2.36-acre portion of the Duke University Campus, zoned R-10, and located on the west side of Wannamaker Drive north of Duke University Road and south of Towerview Road adjacent to Card Gymnasium and Wallace Wade Stadium (Tax Map 106, Block 01, Parcel 001) was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: SITE PLAN APPROVAL - GRANDOVER SUBDIVISION, SECTION II**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve a site plan for the Grandover Subdivision, Section II, submitted by RL Horvath Associates, Inc., consisting of 88 single family lots on a 44-acre tract, zoned PDR-2, and located on the northwest corner of Umstead Road and Bivins Road (Tax Map 834, Block 01, Parcel 02 and Tax Map 820, Block 05, Parcel 03) was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: RESOLUTION SCHEDULING PUBLIC HEARING CONCERNING DURHAM-RALEIGH ANNEXATION AGREEMENT**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution setting a public hearing on Monday March 1, 1999 to receive public comment regarding an annexation agreement for the City of Durham and City of Raleigh, pursuant to NCGS 160A, Article 4A, Part 6 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

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**SUBJECT: SELECTION OF FIRM TO PREPARE A DOWNTOWN DURHAM MASTER PLAN DEVELOPMENT CONCEPTS, INC.**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive a report and recommendation from the Administration concerning the selection of a firm for the preparation of a Downtown Durham Master Plan; and

To authorize the City Manager to execute a contract with the firm of Development Concepts, Inc. to produce a Downtown Master Plan for a fee not to exceed \$125,000.00 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: PROPOSED ACQUISITIONS FOR THE FUTURE EXPANSION OF LAKE MICHIE - PROPERTY OF LUNA V. ROBERTS ESTATE**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the acquisition of approximately 33.54 acres of land located on Cassem Road, Tax Map 956-01-001, property of the Luna V. Roberts Estate for \$258,250.00; and approximately 6.17 acres of land located on Cassem Road, Tax Map 955-01-013, property of Martha M. Duke for \$47,700.00 for the future expansion of Lake Michie was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: AMENDMENT NO. 1 TO CH2M HILL BUSINESS, OPERATIONS, ORGANIZATION, MANAGEMENT AND EXPANSION PLAN CONTRACT**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute Amendment No. 1 to the contract between CH2M Hill and the City of Durham for an increase in the scope of services at an additional cost of \$62,000.00 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH W & W PARTNERS, INC. - CAMERON WOODS SUBDIVISION**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a Water and Sewer

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Extension Agreement with W & W Partners, Inc. for the extension of City water and sewer to serve Cameron Woods Subdivision located on Pickett Road was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: LICENSE AGREEMENT BETWEEN NORFOLK SOUTHERN RAILWAY COMPANY AND THE CITY OF DURHAM AND AGREEMENT AND CONSENT FORM BETWEEN NORTH CAROLINA RAILROAD COMPANY (NCRR), NOROLK SOUTHERN RAILWAY COMPANY AND THE CITY OF DURHAM**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a License Agreement between Norfolk Southern Railway Company and the City of Durham concerning a 12-inch water pipeline, located at Milepost H-59 plus 1,578 feet, to serve Stone Road Industrial Park; and

To authorize the City Manager to execute an Agreement and Consent form between North Carolina Railroad Company (NCRR), Norfolk Southern Railway Company, and the City of Durham concerning the above License Agreement was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: RESCINDING RESOLUTIONS ORDERING CERTAIN LOCAL IMPROVEMENTS**

**MOTION** by Council Member Larson seconded by Council Member Miller to rescind the resolutions adopted by City Council ordering the installation of the following improvements:

- a. **Sewer Main - Fayetteville Road** from the north property line of Tax Map 514-1-15 to Martin Luther King, Jr. Parkway, and
- b. **Sewer Main - Booker Street** from the south property line of Tax Map 410-1-7 to the north property line of Tax Map 410-1-2

was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: RESOLUTION TO PETITION THE STATE OF NORTH CAROLINA UTILITIES COMMISSION**

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**MOTION** by Council Member Larson seconded by Council Member Miller to adopt "A Resolution Authorizing a Petition to be Filed to Intervene in Support of the Proposed Net Metering Docket E-100 Sub 83 to the State of North Carolina Utilities Commission" was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: HICKORY GLEN SUBDIVISION**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Related to Concerns Expressed by Hickory Glen Residents Regarding the Planned Connection of Wedgedale Avenue and Rummel Street" to:

- a. set a public hearing on Monday, April 19, 1999 for City Council-initiated rezoning of the 86 single-family lots in the Hickory Glen Subdivision (±32.5 acres) from RM 8(D) to R-10; and
- b. for the purposes of public safety, to suspend City policy for the 86 single-family residential lots in the Hickory Glen Subdivision only, so as not to require construction of a second point of public access at this time, and explicitly not requiring or supporting the connection between Wedgedale Avenue and Rummel Street

was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: RESOLUTION HONORING KENNETH E. WRIGHT**

**MOTION** by Council Member Larson seconded by Council Member Miller to direct the City Clerk to draft a resolution honoring Kenneth E. Wright was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: DESIGNATION OF COUNCILMEMBER TO ATTEND THE REQUIRED PUBLIC HEARING TO CONSIDER THE CITY'S LEASE OF THE AMERICAN TOBACCO TRAIL CORRIDOR, PHASE E**

**MOTION** by Council Member Larson seconded by Council Member Miller to designate Councilmember Pamela Blyth to attend the public

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hearing (currently scheduled for Wednesday, February 24, 1999, 7:30 p.m. at North Chatham Elementary School) was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: CAPITOL LINK, INC. - PRESENTATION ON AGREEMENT FOR GOVERNMENT AFFAIRS SERVICES**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive a presentation from Mr. Mick Staton of Capitol Link, Inc. regarding strategies and actions related to the Agreement for Government Affairs Services was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: BIDS - COMBINATION CATCH BASIN/SEWER AND HIGH PRESSURE CLEANER - BURDER SHARPE, INC.**

**MOTION** by Council Member Larson seconded by Council Member Miller to accept the bid from Bruder/Sharpe, Inc. in the amount of \$169,875.00 for furnishing the City with a combination catch basin/sewer and high pressure cleaner; and

To waive the requirement for a Performance Bond was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: BIDS - VACUUM CATCH BASIN CLEANER - NORTH CAROLINA EQUIPMENT COMPANY**

**MOTION** by Council Member Larson seconded by Council Member Miller to accept the bid from North Carolina Equipment Company in the amount of \$198,389.00 for furnishing the City with a vacuum catch basin cleaner; and

To waive the requirement for a Performance Bond was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

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**SUBJECT: STREET ACCEPTANCE - DOVER RIDGE SUBDIVISION, FIELDSTONE SUBDIVISION, HOPE VALLEY FARMS (WHITSHIRE), LAKEHURST SUBDIVISION, AND LOCHNORA SUBDIVISION**

**MOTION** by Council Member Larson seconded by Council Member Miller to accept certain streets, as listed in the attachment, for maintenance by the City of Durham was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

Dover Ridge Subdivision - Phase I

1. Dover Ridge Lande - from the end of existing pavement northward the cul-de-sac (485')
2. Cheshire Bridge Road - from the centerline of Dover Ridge Lane eastward then north thru the cul-de-sac (1,563')
3. Laurent Drive - from the centerline of Cheshire Bridge Road north thru the cul-de-sac (275')
4. Summer Ridge Court - from the centerline of Cheshire Bridge Road north thru the cul-de-sac (346')

Fieldstone Subdivision

1. Foxlair Court - from the centerline of Wilderness Road north thru the cul-de-sac (311')
2. Woodcliff Circle - from the centerline of Wilderness Road north thru the cul-de-sac (545')

Hope Valley Farms - Wiltshire

1. Wiltshire Place - from the centerline of Juliette Drive south thru the cul-de-sac (471')
2. Tinsbury Place - from the centerline of Wiltshire Place south thru the cul-de-sac (651')

Lakehurst Subdivision - Phase I & II

1. Stinhurst Drive - from the nend of Phase I (STA 15 + 40) east to the end of Phase II (STA 21 + 40) to the existing pavement (600')
2. Lakehurst Court - from the centerline of Stinhurst Drive south thru the cul-de-sac (1,102')

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3. Monteith Court - from the centerline of Stinhurst Drive south thru the cul-de-sac (429')
4. Shalimar Drive - from the centerline of Stinhurst Drive northward to the end of Phase II (779')

Lochnora Subdivision

1. Fallsworth Drive - from the centerline of Annandale Road west to the centerline of Glenwood Drive (340')
2. Glenwood Drive - from the centerline of Fallsworth Drive north thru the cul-de-sac (675')
3. Glenwood Drive - from the centerline of Fallsworth Drive south thru the cul-de-sac (280')

**SUBJECT: TWENTY-FIVE MILE PER HOUR SPEED LIMIT - ST. MARK'S ROAD**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing a speed limit of 25 mph on St. Mark's Road beginning at Westover Road, if extended, and extending westward to Northampton Road was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: STOP SIGN - AUDOBON PARK**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of a stop sign on Rusticwood Lane at Haventree Road, northwest corner was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: STOP SIGN - CHANCELLOR'S RIDGE**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

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- 1) Chancellor's Ridge Drive at NC 751, northeast corner;
- 2) Tenure Circle (west intersection) at Chancellor's Ridge Drive, southeast corner;
- 3) Tenure Circle (east intersection) Chancellor's Ridge, southeast corner;
- 4) College Avenue at Chancellor's Ridge Drive, northwest corner;
- 5) Trustee Street (west intersection) at Chancellor's Ridge Drive, northwest corner;
- 6) Collegiate Circle (west intersection) at Chancellor's Ridge Drive, southeast corner;
- 7) Chancellor's Ridge Drive (east intersection) at Collegiate Circle, southwest corner;
- 8) Trustee Street (east intersection at Chancellor's Ridge Drive, southwest corner;
- 9) Alumni Avenue at Chancellor's Ridge Drive, southwest corner;
- 10) Graduate Court at Chancellor's Ridge Drive, southwest corner;and
- 11) Graduate Court at Alumni Avenue, northeast and southwest corners

**SUBJECT: STOP SIGNS - CROASDAILE VILLAGE RETIREMENT COMMUNITY**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- 1) Samuel Drive [Private Street] at Hillandale Road, southwest corner;
- 2) Wesley Chapel Drive [Private Street], south intersection, at Croasdaile Farm Parkway, northeast corner; and
- 3) Wesley Chapel Drive [Private Street], north intersection, at Croasdaile Farm Parkway, northeast corner.

**SUBJECT: STOP SIGNS - DOVER RIDGE SUBDIVISION**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- 1) Ballard Court at Garden Hills Court, northwest corner;
- 2) Powder Springs Place at Paces Ferry Drive, southeast corner;

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- 3) Paces Ferry Drive at Ballard Court, northeast corner; and
- 4) Paces Ferry Drive at Ballard Court, southwest corner.

**SUBJECT: STOP SIGN - GRANDOVER SUBDIVISION**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of a stop sign on Queen Ferry Court at Umstead Road, east corner was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: STOP SIGN - HOPE VALLEY FARMS, SULLIVAN TRACE**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- 1) Kissimee Court at Juliette Drive, northwest corner;
- 2) Dolwick Drive at Kissimee Court, northeast corner; and
- 3) Edenberry Drive at Dolwick Drive, southwest corner.

**SUBJECT: STOP SIGN - HORTIN HILLS**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- 1) Stillhouse Place at Sanderson Drive, southeast corner; and
- 2) Sanderson Drive at Stadium Drive, northeast corner.

**[GENERAL BUSINESS AGENDA]**

**[PUBLIC HEARINGS]**

**SUBJECT: Sewer Main - Cooksbury Drive** from Cul-de-sac to East Geer Street; **East Geer Street** from Cooksbury Drive to

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Red Mill Road; and **Red Mill Road** from East Geer Street to Gorman Church Road

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for sewer main on Cooksbury Drive from Cul-de-sac to East Geer Street; East Geer Street from Cooksbury Drive to Red Mill Road; and Red Mill Road from East Geer Street to Gorman Church Road including the following changes was approved at 7:40 p.m. by the following vote:

Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

a. Property of Claude A. Cook

**MOTION** by Council Member Larson seconded by Council Member Miller to find that the property of Claude A. Cook, identified as Tax Map #722-1-2, Cooksbury Drive, No Lot #, Vacant, has not benefited at this time from the sewer main improvement and to relieve the assessment in the amount of \$27,375.22 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer service (in accordance with City policy) was approved at 7:40 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

b. Property of Daniel A. and Tommy Newnam

**MOTION** by Council Member Larson seconded by Council Member Miller to find that the property of Daniel A. and Tommy Newnam, identified as Tax Map #722-1-2A, 2603 Cooksbury Drive, Lot 24, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$3,516.00 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

c. Property of Otha C. and Annie R. Cooley

**MOTION** by Council Member Larson seconded by Council Member Miller to find that the property of Otha C. and Annie R. Cooley, identified as Tax Map #696-3-9, 3301 East Geer Street, Lot 5,

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Vacant, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$3,516.00 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

d. Property of William V. and Carolyn A. O'Quinn

**MOTION** by Council Member Larson seconded by Council Member Miller to find that the property of William V. and Carolyn A. O'Quinn, identified as Tax Map #724-1-22, East Geer Street, Lot 4, Vacant, has not benefited at this time from the sewer main improvement and to relieve the assessment in the amount of \$7,207.80 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer service (in accordance with City policy) was approved at 7:40 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: Sewer Main - Hope Valley Road** from Cardinal Drive to North Property Line of Tax Map 422-3-2 and 423-1-24

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for sewer main on Hope Valley Road from Cardinal Drive to north property line of Tax Map 422-3-2 and 423-1-24 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: Water Main - Cathy Drive** from west property line of Tax Map 387-1-43 to Chandler Road

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for water

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main on Cathy Drive from west property line of Tax Map 387-1-43 to Chandler Road was approved at 7:41 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: Water Main - Wortham Street** from Christian Avenue to Butler Avenue

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for water main on Wortham Street from Christian Avenue to Butler Avenue was approved at 7:41 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING (SC98-10) - WALKER STREET**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an Order Permanently Closing a 10,605± Square Foot Portion of Walker Street was approved at 7:42 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING (SC98-12) - ADER STREET**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an Order Permanently Closing a 6,502± Square Foot Portion of Ader Street was approved at 7:42 p.m. by the following vote:

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Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: MAJOR SPECIAL USE PERMIT (M99-1) - TIDEWATER FIBRE CORPORATION, 1017 HOOVER ROAD (TAX MAP 362-1-1)**

To receive a report from the Administration.

To adopt an "Order Granting, Upon Certain Conditions, a Major Special Use Permit for Tidewater Fibre Corporation, Case M99-1."

City Clerk Bowers swore in the following individuals: Attorney James Williams, Dick Hails; Lee Murphy; and Michael Adcock.

Council Member Cox noted he was excused prior to the conclusion and adjournment of the last meeting. He stated he had obtained a copy of the tape from the February 1st meeting and was aware of all issues discussed on this matter.

The Mayor asked if any council member(s) wish to withdraw due to a conflict which may prevent them from deciding this case in a fair manner. Also, the Mayor asked council to reveal any information they may have heard about this case other than what may have been presented at committee meetings or C-O-W.

Helen Youngblood, of the City/County Planning Department, informed council of additional information provided from the Environmental Resources Department regarding Sound Measurements. She asked that this information be included as a part of the evidence.

Mayor Tennyson asked the administration to furnish all additional information to the residents.

Michael Adcock, of Environmental Resources Department, informed council that he was the individual who prepared the information regarding Sound Measurements dated February 12, 1999.

City Attorney Blinder asked if there were any objections to entering the February 12, 1999 memo from Michael Adcock regarding Sound Measurements into evidence.

There were no objections from interested parties.

**Discussion was held by council on decimal level readings; the city's noise ordinance; and trucks to be used by Tidewater. [For an indepth discussion please refer to tape]**

Helen Youngblood, of the City/County Planning Department, briefed council on the written order prepared by the Planning Department.

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Mayor Tennyson asked the applicant if there were objections to the order prepared by the Planning Department.

Michael Benedetto, representing Tidewater Fibre Corporation, stated he had no objections. Also, he noted he was in agreement with 75 trips per day.

Council Member Blyth asked the opponents if the conditions included in the order meet their expectations.

Ethel Breeze, a resident of Carolyn Drive, stated they had concerns about the conditions. She noted at the last meeting there was discussion about 60 trips now the order states 75 trips.

She also raised concern with the the noise level and Hoover Road being a very narrow street. Ms. Breeze also requested that the applicant provide brick fencing rather than wire.

Discussion was held by council on the city's noise ordinance.

City Attorney Blinder stated it would not be appropriate to place on the applicant the background noise levels that exist on the streets in the city. Mr. Blinder noted if council was interested in focusing on the noise question, it would be appropriate to do so with regard to the proposed use on the property.

Council Member Blyth stated this was a situation that was not planned well in the past with regards to land use and she would not want a recycling facility 600 feet from her home.

A motion was made by Council Member Blyth to deny the special use permit request. This motion was seconded by Council Member Brown.

Helen Youngblood informed the council that recycling centers are allowed in very few zones being I-2; I-3; and CT.

Attorney James Williams, representing the applicant, stated they did look for other sites in the city. He noted if the council had concerns with how a recycling center affects residential communities then the present site on Mallard Street should be reviewed. Attorney Williams stated the proposed site is a very positive one for Tidewater due to natural buffers and it is a very large site. He noted in terms of the noise ordinance, he felt Tidewater would be below \_\_\_\_\_ because of the ability to go on the site and prepare the inside by soundproofing.

Council Member Brown raised concern with the additional noise to be generated by 75 truck trips per day.

Helen Youngblood, of the City/County Planning Department, briefed council on the uses permitted by right.

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A substitute motion was made by Council Member Larson to adopt an order granting upon certain conditions as amended [four foot minimum green coated wire fence and that the site be served by no greater than 75 truck trips per day]. This motion was seconded by Mayor Pro Tempore Clement.

Council Member Engelhard requested a friendly amendment to the motion: "that no hazardous material or waste be recycled or handled on-site with the exeception of materials or waste that may be generated by the servicing of trucks and other vehicles used in this recycling business."

Council Member Larson accepted the friendly amendment concerning hazardous waste.

Council Member Engelhard requested an amendment to the motion as follows: "operations on site shall not be audible at the property line."

Council Member Larson noted that the noise monitoring requirement in the ordinance speaks to Council Member Engelhard's concern.

Council Member Burnette stated she would not be supporting this permit. Council Member Burnette noted by voting no would be a yes for East Durham.

Council Member Cox stated he would be willing to support this permit if council can define the noise under the current noise ordinane in Chapter 11.

With reference to Council Member Cox's concern, Council Member Larson accepted the following as a friendly amendment: "that the applicant comply with the noise ordinance of the city, including but not limited to: Section 11-1-(b)4 and (10) and Section 11-1(d)(2) and (3)."

**SUBSTITUTE MOTION TO THE SUBSTITUTE** by Council Member Engelhard seconded by Council Member McKissick to adopt an order granting, upon certain conditions, as amended: 1) four foot minimum green coated wire fence; 2) site be served by no greater than 75 truck trips per day; 3) that no hazardous material or waste be recycled or handled on-site; 4) operations on site shall not be audible at the property line **FAILED** at 9:31 p.m. by the following vote: Ayes: Council Members Brown, Engelhard and Miller. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Griffin, Jacobs, Langley, Larson and McKissick. Absent: None.

**SUBSTITUTE MOTION** by Council Member Larson seconded by Mayor Pro Tempore Clement to adopt an order granting, upon certain conditions, a Major Special Use Permit for Tidewater Fibre

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Corporation as amended: 1) four foot minimum green coated wire fence; 2) site be served by no greater than 75 truck trips per day; 3) that no hazardous material or waste be recycled or handled on-site; and 4) that the applicant comply with the noise ordinance of the city, including but not limited to; Section 11-1-(b)4 and (10) and Section 11-1(d)(2) and (3) was approved at 9:36 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Cox, Griffin, Jacobs Langley, Larson and Miller. Noes: Council Member Blyth, Brown, Burnette, Engelhard and McKissick. Absent: None.

Mayor Tennyson closed the public hearing.

**SUBJECT: ZONING MATTER CASE P98-67, E. T. DEVELOPMENT CORPORATION, NORTH OF HORTON ROAD**

Case: P98-67

Applicant: E. T. Development Corporation

Location: 10.14 acres north of Horton Road (Tax Map 749-1-1)

Request: Rezoning from R-10 (Residential 10 District) to PDR-5.33 (Planned Density Residential with 5.33 units per acre); E-B (Eno-Basin)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-10 and placing same in and establishing same as PDR-5.33; E-B.

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

**Note: Insufficient protest petition filed against this rezoning case.**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

#### **Proponents**

Larry Thomas, representing the applicant, spoke in support of the request.

#### **Opponents**

Kim Griffin, Jr. spoke in opposition to the request. Mr. Griffin noted he and others were opposed to duplexes being constructed verses single family housing.

Mayor Tennyson closed the public hearing.

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Council Member McKissick asked if the renderings received were a part of the development plan.

The administration replied yes.

**MOTION** by Council Member McKissick seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-10 and placing same in and establishing same as PDR-5.33; E-B was approved at 9:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Member Griffin. Absent: None.

**SUBJECT: ZONING MATTER CASE P98-68, RANDY PAYNE, PAYNE'S POWER TOOLS, WEST SIDE OF NC HIGHWAY 55 BETWEEN NC HIGHWAY 54 AND SEDWICK DRIVE**

Case: P98-68

Applicant: Randy Payne, Payne's Power Tools

Location: 1.66 acres on the west side of NC Highway 55 between NC Highway 54 and Sedwick Drive (Tax Map 541, Block 1, Lot 7A (partial))

Request: Rezoning from NC (Neighborhood Commercial District) and RD (Rural District) to GC(D) (General Commercial with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and RD and placing same in and establishing same as GC(D).

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Duane Stewart, representing the applicant, spoke in support of the request.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

Council Member Blyth asked for information on the location of the creek.

Vonda Frantz noted North East Creek was at the rear of the

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property and the proposal was several hundred feet from the creek.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and RD and placing same in and establishing same as GC(D) was approved at 9:50 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Burnette, Cox, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Members Blyth and Engelhard. Absent: None.

**SUBJECT: ZONING MATTER CASE P 98-70, UNITED DOMINION REALTY TRUST, INC., WEST SIDE OF NC 751, 1400 FEET NORTH OF THE I-40 INTERCHANGE**

Case: P98-70

Applicant: United Dominion Realty Trust, Inc.

Location: 10.263-acre site on the west side of NC 751, 1,400 feet north of the I-40 interchange (Tax Map 428, Block 2, Lot 1)

Request: Rezoning from R-20 (Residential 20) to RM-16(D) (Multifamily Residential District, maximum of 16 dwelling units per acre with a Development Plan); F/J-B (Falls/Jordan Protected Area)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as RM-16(D); F/J-B.

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

Nazeeh Abdul-Hakeem, of the City/County Planning Department, noted that the Durham Open Space & Trails Commission requested a 30 foot easement around the perimeter of this property. Due to the limit nature of the site, Mr. Abdul-Hakeem noted the applicant is able to provide a 20 foot easement for trail dedication.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Attorney Jack Markham, representing the applicant, briefed council on the proposed request. Attorney Markham requested approval of the zoning request.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

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Council Member Blyth asked if there was a note on the development plan indicating the trail dedication.

Attorney Markham stated the applicant will revise the development plan to include the trail dedication.

Council Member Brown raised concern with the impact of traffic.

Earl Lewellyn noted the road improvements being requested for this particular development.

The developer stated that this proposal would have similar materials and quality as Phase One.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as RM-16(D); F/J-B with note on development plan referencing trail dedication was approved at 10:05 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: ZONING MATTER CASE P98-79, PAULA BULLOCK, 5415 NC 55, NORTHEAST CORNER OF NC 55 AND SEDWICK ROAD**

Case: P98-79

Applicant: Paula Bullock

Location: .65 acres at 5415 NC 55, northeast corner of NC 55 and Sedwick Road (Tax Map 541A-1-7)

Request: Rezoning from NC(D) (Neighborhood Commercial District with a Development Plan) to NC(D) (Neighborhood Commercial District with a Development Plan)--**Change in Development Plan**

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC(D) and placing same in and establishing same as NC(D)--**Change in Development Plan.**

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

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**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC(D) and placing same in and establishing same as NC(D)--**Change in Development Plan** was approved at 10:06 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: ZONING MATTER CASE P98-81, THE GENERATION COMPANIES, SOUTH SIDE OF NC HIGHWAY 54**

Case: P98-81

Applicant: The Generation Companies

Location: 15.4-acre site located on the south side of NC Highway 54, approximately 500 feet west of NC Highway 55

Request: Rezoning from NC (Neighborhood Commercial), R-20 (Residential 20 District), and RD (Rural District) to OI-2(D) (General Office and Institutional District with a Development Plan) and RD(D) (Rural District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC, R-20, and RD and placing same in and establishing same as OI-2(D) and RD(D).

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

Vonda Frantz, of the City/County Planning Department, made available to council a letter from Martin Rock President of the Executive Park Office Association stating that the Board of Directors were in opposition to this rezoning request due to drainage issues.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

### **Proponents**

A representative of the applicant briefed council on the details of the project noting low traffic; low noise; and a high quality of clientele. The representative stated that one major item requested by the staff was that the developer make a good faith effort to obtain a connecting driveway and/or pedestrian walkway to adjacent properties. The representative stated despite Mr. Martin Rock's objection, he has agreed to allow the applicant to

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present their ideas to their Board on February 24th. The representative also noted that after talking with Mr. Rock he believes that the concerns regarding drainage issues are related specifically on his property. The representative stated their drainage plan shows their water flowing to the west away from Mr. Rock's property.

No one spoke in opposition.

At this time, the representative of the Generation Companies was given an opportunity to read Martin Rock's letter dated February 15, 1999.

### **Rebuttal**

The representative of the Generation Companies noted that when he spoke with Mr. Rock earlier he did not voice opposition; however, he voiced concern regarding drainage. The representative stated he felt the drainage problems were actually located on Mr. Rock's property.

Mayor Tennyson closed the public hearing.

A motion was made by Council Member Larson to approve the rezoning request. This motion was seconded by Council Member Miller.

Council Member Blyth raised concerns that no DOS report was included as a part of the staff report.

**SUBSTITUTE MOTION** by Council Member Blyth seconded by Council Member Cox to continue the public hearing without further advertising until the March 1, 1999 City Council Meeting to allow the Durham Open Space & Trails Commission an opportunity to review this request was approved at 10:49 p.m. by the following vote: Ayes: Council Members Blyth, Brown, Burnette, Cox, Engelhard, McKissick and Miller. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Langley, Jacobs, Larson and Griffin. Absent: None.

**SUBJECT: ZONING MATTER CASE P98-82, CRAIG DAVIS PROPERTIES  
RESEARCH TRICENTER SOUTH (PHASE 3) CORNWALLIS ROAD**

Case: P98-82

Applicant: Craig Davis Properties Research TriCenter South (Phase 3)

Location: **Tract A:** 5.87 acres bounded by Cornwallis Road to the north, Old Cornwallis Road to the south, and South TriCenter Boulevard to the east (Tax Maps 570-1-4, 5, 6, 7) and **Tract B:** 28.5 acres on the southeast side of South TriCenter Boulevard (Tax Map 572-1-17E)

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Request: Rezoning from I-2(D) (Light Industrial District with a Development Plan) to I-2(D) (Light Industrial District with a Development Plan)--**Change in Development Plan** and from R-20 (Residential 20 District) to I-2(D) (Light Industrial District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of I-2(D) and placing same in I-2(D)--**Change in Development Plan**; and by taking additional property described above out of R-20 and placing same in and establishing same as I-2(D).

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

### **Proponents**

Bob Peter, representing the applicant, stated the request is for a change in an existing development plan and an addition to the plan. Mr. Peter briefed council on the request.

### **Opponents**

Shelia Bryant-Sparrow, representing her father, spoke in opposition to this request. She noted her father's concern was the present stormwater runoff on his land.

### **Rebuttal**

Bob Peter stated he spoke with Mr. Bryant and his stormwater runoff is a pre-existing condition. Mr. Peter noted that he was not the full source of stormwater that runs across Mr. Bryant's property. Also, Mr. Peter noted that this rezoning request is below Mr. Bryant's property and does not impact his current condition.

Mayor Tennyson closed the public hearing.

Council Member McKissick asked the staff for clarification on the drainage issue.

Sue Burke, of the Public Works Division, noted the proposal is downstream of Mr. Bryant's property and would drain away from his property.

A motion was made by Council Member McKissick to approve the

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rezoning request. This motion was seconded by Council Member Larson.

Council Member Blyth asked what was the cause of the current drainage problems noted by Mr. Bryant.

Sue Burke, of the Public Works Division, stated there was some sediment that had been transported off site and started to fill in the drainage ditch on Mr. Bryant's property. Also, she noted it would be the property owner's responsibility to dredge out the ditch.

Council Member Burnette suggested that an item be placed on the Public Works Agenda regarding Mr. Bryant's concerns.

**EXCUSE COUNCIL MEMBERS BURNETTE AND MCKISSIK**

**MOTION** by Council Member Cox seconded by Council Member Brown to excuse Council Members Burnette and McKissick from the meeting was approved at 11:13 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Larson, McKissick and Miller. Noes: Council Member Langley. Absent: None.

**MOTION** by Council Member McKissick seconded by Council Member Larson to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of I-2(D) and placing same in I-2(D)--**Change in Development Plan**; and by taking additional property described above out of R-20 and placing same in and establishing same as I-2(D) was approved at 11:14 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson and Miller. Noes: None. Excused Absence: Council Members Burnette and McKissick.

**SUBJECT: REPORT FROM THE TAXICAB COMMISSION - JANUARY 27, 1999 MEETING**

To receive a report from the Taxicab Commission and to take action on the following recommendations of the Taxicab Commission--pursuant to Section 22-159.10 of the Durham City Code:

a. Transfer of Operator's License:

J.M.O. #21 (Jemal Osman to Abdulraouf Ali)

Taxicab Inspector's Recommendation: Approve transfer of

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Operator's License #21 (in accordance with City Code)

Taxicab Commission's Recommendation: Approve transfer of  
Operator's License #21 (Vote 3-0)

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Miller to approve the Taxicab Commission's recommendation [approve transfer of operator's license #21] was approved at 11:16 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson and Miller. Noes: None. Excused Absence: Council Members Burnette and McKissick.

b. Late Payment/Cancellation of Vehicle Insurance:

J.C.'s #166 (Robert Burton)

Taxicab Inspector's Recommendation: Revoke Operator's License  
#166 (in accordance with City Code)

Taxicab Commission's Recommendation: Allow Mr. Burton to retain  
Operator's License #166 (Vote 3-0)

**MOTION** by Council Member Cox seconded by Mayor Pro Tempore Clement to approve the Taxicab Commission recommendation [allow Mr. Burton to retain operator's license #166] was approved at 11:16 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley and Miller. Noes: Council Member Larson. Excused Absence: Council Members Burnette and McKissick.

c. Revocation of Operator's License - Failure to Place  
Taxicab(s) in Service:

P.M. #155 (LaTanya Moore)

Taxicab Inspector's Recommendation: Revoke Operator's License  
#155 (in accordance with City Code)

Taxicab Commission's Recommendation: Revoke Operator's License  
#155 (Vote 3-0)

Ms. LaTanya Moore requested that this item be deferred to the March 1, 1999 City Council Meeting.

**MOTION** by Council Member Larson seconded by Council Member Miller to defer this item to the March 1, 1999 City Council Meeting was approved at 11:17 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth,

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Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson and Miller. Noes: None. Excused Absence: Council Members Burnette and McKissick.

d. Revocation of Operator's Licenses - Failure to Have Taxicabs Inspected:

1) Bates #120 (Henry Bates)

Taxicab Inspector's Recommendation: Revoke Operator's License #120 (in accordance with City Code)

Taxicab Commission's Recommendation: Suspend Taxicab #120 until inspected or until the June, 1999 inspection period (Vote 4-0)

**MOTION** by Council Member Miller seconded by Council Member Cox to approve the Taxicab Commission's recommendation [suspend Taxicab #120 until inspected or until the June 1999 inspection period] was approved at 11:17 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley and Miller. Noes: Council Member Larson. Excused Absence: Council Members Burnette and McKissick.

2) Bull City #88, Deluxe #132 and #135 (Algin Holloway)

Taxicab Inspector's Recommendation: Revoke Operator's Licenses #88, #132, and #135 (in accordance with City Code)

Taxicab Commission's Recommendation: Not Revoke Operator's Licenses #88, #132, and #135 (Vote 3-0)

**MOTION** by Council Member Cox seconded by Council Member Miller to approve the Taxicab Commission's recommendation [not revoke operator's licenses #88, #132, and #135] was approved at 11:19 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Cox, Engelhard, Griffin, Jacobs, Langley and Miller. Noes: Council Members Blyth and Larson. Excused Absence: Council Members Burnette and McKissick.

3) DART #127, #128, and #129 (Maurice Ochola)

Taxicab Inspector's Recommendation: Revoke Operator's Licenses #127, #128, and #129 (in accordance with City Code)

Taxicab Commission's Recommendation: Suspend Operator's Licenses #127, #128, and #129 until inspected or until the February 24,

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**MOTION** by Council Member Cox seconded by Mayor Pro Tempore Clement to approve the Taxicab Commission's recommendation [suspend operator's licenses #127, #128, and #129] was approved at 11:20 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Cox, Griffin, Jacobs, Langley and Miller. Noes: Council Members Blyth, Engelhard and Larson. Excused Absence: Council Members Burnette and McKissick.

4) J.C.'s #166 (Robert Burton)

Taxicab Inspector's Recommendation: Revoke Operator's License #166 (in accordance with City Code)

Taxicab Commission's Recommendation: Suspend Operator's License #166 until inspected or until the February 24, 1999 Taxicab Commission Meeting (Vote 4-0)

**MOTION** by Council Member Cox seconded by Mayor Pro Tempore Clement to approve the Taxicab Commission's recommendation [suspend operator's license #166 until inspected or until the February 24, 1999 Taxicab Commission Meeting] was approved at 11:20 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Cox, Griffin, Jacobs, Langley and Miller. Noes: Council Members Blyth, Engelhard and Larson. Excused Absence: Council Members Burnette and McKissick.

5) J & L #100 (James Smith)

Taxicab Inspector's Recommendation: Revoke Operator's License #100 (in accordance with City Code)

Taxicab Commission's Recommendation: Suspend Operator's License #100 until inspected or until the February 24, 1999 Taxicab Commission Meeting (Vote 4-0)

**MOTION** by Council Member Cox seconded by Mayor Pro Tempore Clement to approve the Taxicab Commission's recommendation [suspend operator's license #100 until inspected or until the February 24, 1999 Taxicab Commission Meeting] was approved at 11:20 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Cox, Griffin, Jacobs, Langley and Miller. Noes: Council Members Blyth, Engelhard and Larson. Excused Absence: Council Members Burnette and McKissick.

6) Rainbow #134 (Gale Holloway)

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Taxicab Inspector's Recommendation: Revoke Operator's License #134 (in accordance with City Code)

Taxicab Commission's Recommendation: Suspend Operator's License #134 until inspected or until the February 24, 1999 Taxicab Commission Meeting (Vote 4-0)

**MOTION** by Council Member Cox seconded by Mayor Pro Tempore Clement to approve the Taxicab Commission's recommendation [suspend operator's license #134 until inspected or until the February 24, 1999 Taxicab Meeting was approved at 11:20 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Cox, Griffin, Jacobs, Langley and Miller. Noes: Council Members Blyth, Engelhard and Larson. Excused Absence: Council Members Burnette and McKissick.

7) Smith #107 (David Smith)

Taxicab Inspector's Recommendation: Revoke Operator's License #107 (in accordance with City Code)

Taxicab Commission's Recommendation: Suspend Operator's License #107 until inspected or until the February 24, 1999 Taxicab Commission Meeting (Vote 4-0)

**MOTION** by Council Member Cox seconded by Mayor Pro Tempore Clement to approve the Taxicab Commission's recommendation [suspend operator's license #107 until inspected or until the February 24, 1999 Taxicab Commission Meeting] was approved at 11:20 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Cox, Griffin, Jacobs, Langley and Miller. Noes: Council Members Blyth, Engelhard and Larson. Excused Absence: Council Members Burnette and McKissick.

8) Star #141 and #175 (Anne Dixon)

Taxicab Inspector's Recommendation: Revoke Operator's Licenses #141 and #175 (in accordance with City Code)

Taxicab Commission's Recommendation: Suspend Operator's Licenses #141 and #175 until inspected or until the February 24, 1999 Taxicab Commission Meeting (Vote 4-0)

**MOTION** by Council Member Cox seconded by Mayor Pro Tempore Clement to approve the Taxicab Commission's recommendation [suspend operator's licenses #141 and #175] was approved at 11:20 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Cox, Griffin, Jacobs, Langley and Miller. Noes: Council Members Blyth, Engelhard and Larson.

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Excused Absence: Council Members Burnette and McKissick.

**SUBJECT: 1999 LEGISLATIVE PROGRAM**

Council Member Engelhard requested that the Delegation of Authority to Approve Fireworks Displays be severed.

**MOTION** by Council Member Cox seconded by Council Member Miller to receive a report and recommendation of the Legislative Committee concerning the 1999 Legislative Program; and

To approve the 1999 Legislative Program with the exception of the Authority to Approve Fireworks Displays was approved at 11:22 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson and Miller. Noes: Mayor Pro Tempore Clement. Excused Absence: Council Members Burnette and McKissick.

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the Delegation of Authority to Approve Fireworks Displays as a part of the 1999 Legislative Program was approved at 11:22 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Griffin, Jacobs, Langley, Larson and Miller. Noes: Council Member Engelhard. Excused Absence: Council Members Burnette and McKissick.

**1999 LEGISLATIVE PROGRAM**

**Charter Amendments/Local Bills**

1. Delegation of Authority to Make and Sign Contracts
2. Delegation of Authority to Approve Fireworks Displays
3. Privilege License Tax Year
4. Expand Protection Against Discrimination
5. Consideration of Limitations on Uses as Requested in Development Plans
6. Motor Vehicle Tax
7. Service of Process in Zoning Code Violation Cases

**General Law/Carryover Bills**

1. Support Changes to ABC laws to Give Communities Greater Control
2. Authority to Require Repair of Substandard Dwellings
3. Drug Sales Near Municipal Parks and Playgrounds
4. Revise Highway Trust Fund Legislation
5. Local Option Gaxs Tax or One-Half Cent Local Option Sales Tax
6. Expand Ethnic Intimidation Act

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7. Amend North Carolina Crimes Against Nature Law
8. Allow Administrative Search and Inspection Warrants at Night in Appropriate Circumstances
9. Clarify that Stormwater Fees May be Used for Federally Mandated Stormwater Quality Programs

Other

1. Resolution Supporting Reduction of Driving While Impaired Blood Alcohol Threshold from .08 to .05
2. Resolution Supporting "Phase 2" State Development Zone Legislation
3. Resolution Supporting Effective Enforcement of Regulations Regarding the Transportation of Hazardous Substances

**SUBJECT: REZONING CASE P98-46, NORTH POINTE - REQUEST FOR WITHDRAWAL OF APPLICATION**

**MOTION** by Council Member Larson seconded by Council Member Miller to accept the request for withdrawal of application in Case P98-46, North Pointe, and to cancel the public hearing scheduled for Monday, March 1, 1999 was approved at 11:22 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson and Miller. Noes: None. Excused Absence: Council Members Burnette and McKissick.

There being no further business to come before the Council, the meeting was adjourned at 11:23 p.m.

D. Ann Gray  
Deputy City Clerk

Margaret M. Bowers, CMC  
City Clerk